

SHOREVIEW PLANNING COMMISSION MEETING MINUTES

April 26, 2011

CALL TO ORDER

Chair Feldsien called the meeting of the April 26, 2011 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Chair Feldsien; Commissioners Ferrington, Mons, Proud, Schumer, and Solomonson.

Commissioner Wenner was absent.

APPROVAL OF AGENDA

MOTION: by Commissioner Schumer, seconded by Commissioner Solomonson to approve the agenda as submitted.

VOTE:

Ayes - 6

Nays - 0

APPROVAL OF MINUTES

MOTION: by Commissioner Mons, seconded Commissioner Schumer to approve the March 22, 2011 Planning Commission minutes as submitted:

Commissioner Solomonson noted a correction on page 1-- approval of the March 1, 2011 Planning Commission meeting minutes, the vote should show 5 ayes and 1 abstention.

Commissioners Mons and Schumer accepted the amendment.

VOTE:

Ayes - 6

Nays - 0

REPORT ON CITY COUNCIL ACTIONS

City Planner Kathleen Nordine reported that on April 4, 2011, the City Council approved the minor subdivision for John and Beth Michaelson at 435 Snail Lake Road, as recommended by the Planning Commission.

NEW BUSINESS

MINOR SUBDIVISION/VARIANCE

FILE NO.: 2415-11-07
APPLICANT: GRUBERS
LOCATION: 3289 EMMERT STREET

Presentation by City Planner Kathleen Nordine

The applicant, Jim Gruber et al, proposes to divide the subject property into two parcels. Parcel 2 would be for the existing home. Parcel 1 would be for new single-family residential use. With this application, a variance has been requested to reduce the required setback from Victoria Street for the future home. The setback range required is from 153.5 feet to 173.5 feet. The proposed setback is 40 feet. The new lot will have frontage on both Victoria and Emmert Streets. The property is zoned R1, Detached Residential. City subdivision requirements include hookup to City sewer and water, frontage on a public road and drainage and utility easements.

A similar subdivision was approved in 1980, for two new parcels (Tracts A and B) for single-family residential development. The City Council approved the subdivision with a condition for a 40-foot setback for Tract A. The City Council further determined that the depth of Tracts A and B should be consistent with the subdivision of two parcels on the adjacent property to the south. Tract B was recorded, but Tract A was not, which was just recently discovered.

In the current proposal, Parcels 1 and 2 meet City Code requirements. The setback of the existing home is in compliance. Accessory structures must be removed. There was standing water on the property at the time of the survey, which will need to be addressed with a grading and drainage plan.

Justification for the variance is the fact that the new parcel will have a depth of 135 feet, which becomes unbuildable, if the setback complies to the range of 153.5 to 173.5 feet. The applicant states that the following justify hardship: 1) previous subdivision approval for a 40-foot setback; 2) development pattern in the neighborhood; and 3) the City's ordinance change regarding front setbacks.

Staff is in agreement. Both parcels will conform to City standards. Setbacks along Victoria range from 30 to 150 feet. Lots on Victoria do not have uniform configuration. Larger lots have been subdivided. A unique circumstance is the previous subdivision approval. The recording of Tract B is a determining factor for the subdivision of Tract A. When the first subdivision was granted, the required front setback was 40 feet. Since that time, in 1997, the setback averaging rule was adopted, which will not work for Parcel 1. Staff is recommending approval with the conditions attached in the staff report.

Property owners within 350 feet were notified of the application. Concern has been expressed

about the loss of large lots in the neighborhood with the loss of open space. There was also one comment in support.

Commissioner Ferrington noted that the 40-foot setback would not encroach any further toward the road than other houses in the neighborhood.

Chair Feldsien opened the discussion to public comment.

Mr. Jim Gruber, 1545 Almond Avenue, St. Paul, stated that he and his siblings are the applicants for the minor subdivision and variance. They were aware of the past application and approval but unaware that the parcel was not recorded. At this time they would like to move forward with the subdivision, and sale of both parcels. He offered to answer any questions.

Commissioner Mons noted that one concern expressed about drainage is addressed by staff recommendations. In regard to the loss of large lots, there has been subdivision throughout this neighborhood. He does not believe this subdivision will have a negative impact. Actually, this application has been approved but was not recorded for whatever reason. The 40-foot setback is reasonable.

MOVED BY COMMISSION MEMBER SCHUMER

SECONDED BY COMMISSION MEMBER PROUD

To approve the variance and minor subdivision applications for 3289 Emmert Street dividing the property into two parcels, creating a new parcel for single family residential use. The front yard setback variance is justifiable due to the past history with the property, change in city standards and character neighborhood. The proposal supports the City's housing goals regarding reinvestment and neighborhood preservation. Said approval is subject to the following conditions:

Variance:

1. The project must be completed in accordance with the plans submitted as part of the Minor Subdivision/Variance applications.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins on Parcel 1.
4. A tree protection and replacement plan shall be submitted prior to issuance of a building permit for Parcel 1. The approved plan shall be implemented prior to the commencement of work on the property and maintained during the period of construction. The protection plan shall include wood chips and protective fencing at the drip line of the retained trees.
5. An erosion control plan shall be submitted with the building permit application and implemented during the construction of the new residence.

6. A final site-grading plan shall be submitted and approved prior to issuance of a building permit. Said plan shall further review and address the standing water on the property.
7. Access to the future home on Parcel 1 is permitted off of Victoria Street provided the proper permits are received from Ramsey County.
8. A building permit must be obtained before any construction activity begins.

Minor Subdivision:

1. The minor subdivision shall be in accordance with the plans submitted, dated April 8, 2011.
2. The Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations is waived as a fee was paid in 1980 when the previous subdivision was approved.
3. Public drainage and utility easements shall be conveyed to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. Municipal water and sanitary sewer service shall be provided to the new lot.
5. The total number of detached accessory structures on Parcel 2 is limited to two, with a total area of 150 square feet. Detached accessory structures shall be removed to bring the property into compliance with the City's regulations prior the City's release of deeds for recording. Existing barbed wire fencing shall be removed prior to the City's release of deeds for recording.
6. The applicant shall enter into a development agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
7. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.
8. Approval of the Minor Subdivision is contingent upon the Planning Commission's approval of the variance to reduce the required front yard setback.

This approval is based on the following findings:

Variance

1. *The property in question cannot be put to a reasonable use under the conditions allowed by the Development Ordinance.* The subdivision is a reasonable use of the property as both of the proposed lots comply with and exceed the minimum standards of the R-1, District. With a lot area over 13,000 square feet, a lot width of 99 feet and a lot depth of 135 feet, Parcel 1 does have adequate area for a single family residence. It is reasonable to apply a similar setback standard used for other parcels in this neighborhood that are similarly situated and not through lots. The setbacks of the single family residences on similar parcels east of Victoria Street range from 30 feet to 150 feet.
2. *The hardship is created by circumstances unique to the property and was not created by the landowner.* The circumstances related to this property are unique. The City granted approval of the same subdivision proposal in 1980 and required a minimum setback of 40 feet from Victoria Street. The recording of Tract B created a lot of record affecting how the remainder of the property can be subdivided. When the proposal was previously reviewed, there was a conscious

effort to have the common boundary between Tracts A and B be consistent with the previous subdivision to the south. This action established the depth of Tract A, the 40-foot front yards setback from Victoria Street and the buildable area of the property.

3. In 1997, the Development Code was amended and the front yard setback averaging rule was adopted. This change was not created by the property owner and creates difficulty when applied to this proposed Parcel 1.
4. *The variance will not alter the essential character of the neighborhood.* The neighborhood is not characterized by uniform lot configurations or orientation of dwellings, but instead a mosaic reflecting the fragmented development of the area. The majority of the large lots have been further subdivided, resulting in the lot pattern currently existing. The resulting parcel is similar in character to other parcels in the neighborhood. A future home on the property will also be placed at a setback similar to the other non-through lots in the neighborhood. The variance, if granted, will not alter the character of the neighborhood.

Minor Subdivision:

1. The subdivision is consistent with the policies of the Comprehensive Plan and in compliance with the regulations of the Development Code.
2. The proposed lots conform to the adopted City standards for the R1 District.
3. Municipal water and sanitary sewer service are available for each proposed parcel.

Discussion:

Commissioner Solomonson stated that he agrees with Commissioner Mons' comments and supports the motion.

VOTE:

AYES: 6

NAYS: 0

VARIANCE

FILE NO.: 2415011-08
APPLICANT: MOSER HOMES/JON & BOBBI BLILIE
LOCATION: 3620 RUSTIC PLACE

Presentation by Senior Planner Rob Warwick

The application proposes construction of a new 1 ½ story home with three-car garage on the vacant lot at 3620 Rustic Place. The property is zoned R1, Detached Residential. The property is a through lot with frontage on Rustic Place and Rice street. Access is off Rustic Place. The variance request is to reduce the rear setback from Rice Street from 160.8 feet to 138.7 feet.

In 2004, the previous owners received approval for a minor subdivision for two parcels, which were subsequently sold. In 2007, purchasers received approval for a variance request to reduced the Rice Street setback to 124.1 feet. The proposed new home at that time was never built, and the variance approval has expired. The Blilies purchased the property this year to build a new home with increased side and front lot lines than what was approved in 2007. The proposed setbacks are 49 feet from Rustic Place and 138.7 feet from Rice Street.

The house will include a 3-car garage with a room over the garage, which will not be finished at this time. The room over the garage has a separate outside staircase and is not connected to the inside of the house. The side setbacks are proposed to be 23.1 feet on the north and 11.0 feet on the south. The property is wooded and four trees will be removed. Trees have been removed due to oak wilt. Trees will be evaluated for health prior to issuance of the building permit. Two replacement trees are required for one landmark tree removed. A protective fence with woodchips will be required during construction to protect remaining trees.

The Development Code requires the front setback to be calculated, when houses on adjacent parcels have setbacks more than 40 feet. However, this does not include corner lots. The property immediately south of the subject property is a corner lot. This means that the code requirement for the proposed house front setback would be plus or minus 36.28 feet, the setback of the house to the north. The rear setback range is 160.8 to 180.8 feet. Side setback requirement is a minimum of 10 feet for living area and 5 feet for garage space.

The applicant states that the location of the house to the north, on a narrow lot, limits the use of this property. Houses in the neighborhood are not aligned so the proposed house location is not an exception to the character of the neighborhood. Detached garages of several houses increase development area for those lots but not the subject property. There is a stricter standard for a house with an attached garage.

Staff agrees that hardship is present due to the treatment of through lots in the Development Code. The requirement that the setback be determined by the location of the house to the north does not fit the character of the neighborhood. Both the east and west lot lines are public streets, which makes both sides front lot lines. The lack of a rear lot line unreasonably limit's the use of the property. There is an 11-foot grade change on the property with Rice Street sitting several feet lower. Fencing and shrubs along Rice Street minimize any visual impact of the proposed house.

Property owners within 150 feet were notified of the application. One written response was received. Neighbors to the north object to the depth of the house because it will impact their view.

Staff believes hardship is present because of the double front for this lot. The shallow depth of the house to the north and the diverse styles and locations of houses in the area mean the proposed house will not impact the character of the neighborhood. Staff recommends approval with the conditions listed in the staff report.

Mr. Bob Moser, 986 Priester Lane, Hudson, WI, Builder, stated that the proposed house is smaller with significantly increased setbacks from the house previously approved in 2007. The calculations for setbacks required by the City Code work to the disadvantage of the applicants. He spoke with the neighbors to the north who understand that this proposal will have less impact than one that is on the required setbacks. They stated they would not appear to voice objections at this meeting. He believes this concern has been addressed.

Commissioner Mons stated that given the historical perspective, he believes the request is reasonable.

Commissioner Ferrington expressed her appreciation that Mr. Moser did discuss the neighbors' objections with them to resolve the issue.

Chair Feldsien asked the City's setback interpretation for living space above the garage. Mr. Warwick stated that all living area must be 10 feet from the lot line.

MOVED BY COMMISSION MEMBER MONS

SECONDED BY COMMISSION MEMBER SCHUMER

To adopt Resolution 11-24, approving the variance request submitted by Moser Homes to construct a new residence and attached garage with a rear setback of 138.7 feet from the Rice Street right-of-way, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted by the applicant with the variance application, as approved by the Planning Commission on April 26, 2011. Any significant change to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. Landmark trees removed shall be replaced at a ratio of 2 replacement trees per health landmark tree removed. A surety in the amount of \$250.00 per required replacement tree shall be deposited with the City prior to issuance of a building permit. The grading plan submitted with the building permit application will identify all landmark trees proposed for removal.
3. Tree protection shall be installed and maintained during construction. All retained trees within the limits of construction shall be encircled with wood chips, 2 feet deep, to the drip edge. Tree protection fencing shall be installed at the drip edge.
4. No temporary or permanent driveway access to Rice Street shall be permitted.
5. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
6. This approval is subject to a 5-day appeal period.

Discussion:

Chair Feldsien requested that the site plan be dated today to save confusion from previous plans.

Commissioners Mons and Schumer accepted this amendment to condition No. 1.

VOTE:

Ayes: 6

Nays: 0

MISCELLANEOUS

Chair Feldsien and Commissioner Mons will respectively attend the May 2nd and May 16th City Council meetings.

The Planning Commission will hold a workshop meeting prior to the regular meeting on May 24, 2011. The time will be determined at a later date.

ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner Mons to adjourn the March 24, 2011, Planning Commission meeting at 8:04 p.m.

ROLL CALL: Ayes - 6 Nays - 0

ATTEST:

Kathleen Nordine
City Planner